

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

HILTON EVANS,

Case No. 4:06-CV-151

Petitioner,

Hon. Richard Alan Enslen

v.

BLAINE LAFLER, *et al.*,

FINAL ORDER

Respondents. /

This matter is before the Court on Petitioner Hilton Evans' Objection to United States Magistrate Judge Ellen S. Carmody's Report and Recommendation ("Report") of March 6, 2007, which recommends dismissal of Petitioner's Petition for Writ of Habeas Corpus under Rule 4 for being frivolous. This Court reviews the Report, Petitioner's Objection, and pertinent portions of the record *de novo* in accordance with 28 U.S.C. § 636(b)(1)(B).

Petitioner objects to the Report on a multitude of grounds. However, after review the Court finds Petitioner's objections are substantively frivolous and devoid of merit. As the Report correctly found, Petitioner has failed to present any question of federal law or claim of merit and his Objections do not correct the deficiency. Accordingly, Petitioner's Objections will be denied.

Pursuant to 28 U.S.C. § 2253, the Court must also assess whether to grant the issuance of a certificate of appealability to Petitioner. *See Castro v. United States*, 310 F.3d 900, 903 (6th Cir. 2002) (holding that § 2253 analysis may be done at the time the claim for relief is determined). Under the statute and the United States Supreme Court's determinations in *Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000) and *Barefoot v. Estelle*, 463 U.S. 880, 893 & n.4 (1983), a certificate shall issue if the resolution of the petition is debatable among reasonable jurists or adequate to deserve encouragement for some other reason. Here, the Court finds that reasonable jurists would not find

Petitioner's positions debatable with respect to the substantive grounds for denying relief as to all issues asserted. Accordingly, a certificate of appealability will be denied.

THEREFORE, IT IS HEREBY ORDERED that Petitioner Hilton Evans' Objection to the Report and Recommendation (Dkt. No. 11) is **DENIED** and the Report and Recommendation (Dkt. No. 9) is **ADOPTED**.

IT IS FURTHER ORDERED that Petitioner Hilton Evans' Petition for Writ of Habeas Corpus (Dkt. No. 1) is **DENIED WITH PREJUDICE**.

IT IS FURTHER ORDERED that Petitioner is **DENIED** a certificate of appealability as to all issues asserted in his Motion.

Dated in Kalamazoo, MI:
April 5, 2007

/s/Richard Alan Enslen
Richard Alan Enslen
Senior United States District Judge